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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,453	10/15/2003	Richard D. Hibbs	HREL121731	8781
26389	7590	10/20/2004	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/687,453

Applicant(s)

HIBBS ET AL.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 11-19 is/are rejected.
- 7) ☒ Claim(s) 9, 10 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is the second office action for application number 10/687,453, Apparatus for Securing a Cap of a Container to an External Structure, filed on October 15, 2003.

Response to Amendment

The indicated allowability of claims 9, 10, 18, and 20 is withdrawn in view of the newly discovered reference(s) to Lubebbers et al. and Goldstein et al. Rejections based on the newly cited reference(s) follow.

Claim Objections

Claims 9, 10, and 20 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Per applicant's remarks filed on July 26, 2004 it is noted that only the subcombination of the invention is being claimed, i.e., the hanger is only being claimed, and thus claims 9, 10, and 20 are not further limiting because they further limit features of the cap, for this reason, they have not been further treated on their merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 and 11-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 11 have ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a cap," in lines 3 and 5 of claim 1 and in lines 3 and 6 of claim 11 and "a container," in lines 3 and 8 of claim 1 and lines 7 of claim 11 are intended to refer to the original recitation of the term "a cap," in line 1 of claims 1 and 11 and "a container," bridging lines 1 and 2 of claim 1 and in line 1 of claim 11. The applicant is suggested to change the latter recitations to --the cap-- or --the container--.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 5, 7, and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,706,154 to Luebbbers et al., hereinafter, Luebbbers. Luebbbers discloses a remover (5) capable of functioning as a hanger, comprising: a coil (8) sized to fit within a handle grip (10) and thus is capable of fitting within a cap; a body (6) connected to the coil, in which the body is configured to extend away from the coil; a hook (7) connected to the body, in which the hook is configured to engage an external structure for hanging; wherein the coil, the body, and the hook are constructed of wire; wherein the wire is used to construct the coil, body, and the hook is a single integral

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length of wire; wherein the coil is comprised of one or more loops; and wherein the coil is configured to be retained within the cap by spring tension against the cap.

Claims 1-3, 5, 6, 8, 11, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,060,995 to Goldstein et al., hereinafter, Goldstein.

Goldstein discloses an adapter (10) capable of functioning as a hanger, comprising: a coil (16) sized to fit within a cap; a body (11) connected to the coil, in which the body is configured to extend away from the coil; a hook (12) connected to the body, in which the hook is configured to engage an external structure for hanging; wherein the coil, the body, and the hook are constructed of wire; wherein the wire is used to construct the coil, body, and the hook is a single integral length of wire; wherein the coil is comprised of one or more loops; wherein the coil is comprised of a partial loop (near 17); and wherein the body is further configured with an intermediate bend (14).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein. Goldstein discloses the claimed invention except for the limitation of the wire being made of stainless steel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the wire in Goldstein to have been constructed of stainless steel for the purpose of providing an alternative,

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mechanically equivalent material for the wire based on the materials suitability for the intended use.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein in view of U.S. Patent 4,997,156 to Allen. Goldstein discloses the claimed invention except for the limitation of the securing structure being a clip. Allen teaches a clip attached to the hook portion (26) of a holder for securing the holder to an external structure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the device in Goldstein to have included a clip attached to the hook of the device for the purpose of providing a means for attaching the hanger to various external structures having different shapes and sizes.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldstein in view of U.S. Patent 6,364,266 to Garvin. Goldstein discloses the claimed invention except for the limitation of securing structure having a loop with a closure mechanism. Garvin teaches a hanger having a securing structure (18) formed as a loop with a closure mechanism (40). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the securing structure in Goldstein to have included the loop and closure mechanism as taught by Garvin for the purpose of providing an alternative means for attaching the hanger to an external structure.

Allowable Subject Matter

Claims 14 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 1,794,911 to Livermore

U.S. Patent 3,132,860 to Nantz

U.S. Patent 4,997,222 to Reed


Livermore discloses a mechanism having a hook end and a loop end. Nantz discloses a safety coiled spring structure. Reed discloses a zipper pull having a hook end and a coiled end.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

October 18, 2004